

UNITED STATES OF AMERICA
POSTAL RATE COMMISSION
WASHINGTON, DC 20268-0001

Postal Rate and Fee Changes

Docket No. R2005-1

PRESIDING OFFICER'S RULING
ON DAVID B. POPKIN MOTION TO COMPEL
RESPONSES TO INTERROGATORIES

(Issued September 20, 2005)

On September 6, 2005, David B. Popkin filed a motion to compel a response to his interrogatories DBP/USPS-306, 307, and 310.¹ The Postal Service objected to these discovery requests on the ground of relevance in a pleading filed on August 25, 2005.² I will consider the contested interrogatories in numerical order.

DBP/USPS-306. This interrogatory refers to the Service's response to DBP/USPS-213, and asks for an explanation why it does not provide A-Label Express Mail service to more destinations than the indicated 7200 post offices in instances where existing transportation is available within overnight First-Class Mail service areas—e. g., Englewood NJ 07631 to Paramus NJ 07652. The Service objects, noting its earlier provision of a list of all 7200 available destinations for A-Label Express Mail and its indication that inclusion on that list depends primarily on the Service's ability to meet the 10 a.m. commitment for such mail. The Service asserts that further

¹ David B. Popkin Motion to Compel Response to Interrogatories DBP/USPS-306, 307, and 310, September 6, 2005 (Motion).

² Objection of the United States Postal Service to Interrogatories of David B. Popkin (DBP/USPS-306-307, 310), August 25, 2005 (Objection).

operational details as to why certain ZIP Codes are not on the list are irrelevant to this proceeding.³

In his Motion, Mr. Popkin argues that the inquiry is relevant because the availability of A-Label Express Mail to all areas having overnight First-Class Mail service standards bears on the value of that service.⁴ In an Opposition filed on September 13, 2005, the Service argues that specific operational details as to why certain ZIP Codes are not on the list provided in response to DBP/USPS-210 have little if any bearing on the service “actually provided” by A-Label Express Mail, quoting the language of § 3622(b)(2). Thus, the Service asserts, the interrogatory seeks a level of operational detail that is irrelevant to any issue in this proceeding.⁵

I agree with the Postal Service that, to the extent DBP/USPS-306 requests information beyond that already provided by the Service, it improperly seeks operational information in excessive detail. The Service has already stated for the record that “[t]he availability of Post Office-to-Post Office Express Mail to a destination ZIP Code from an origin ZIP Code is based primarily on the availability of transportation necessary to meet the 10:00 AM delivery commitment.”⁶ Thus, the Service has already disclosed the crucial factor that can preclude the availability of Express Mail service within overnight First-Class Mail service areas. Any further elaboration would yield little if any incremental understanding of the overall value of the service actually provided Express Mail. Therefore, I shall deny the motion as to this interrogatory.

DBP/USPS-307. This interrogatory refers to the Service’s response to DBP/USPS-211 subparts (a) and (b), and asks how one would determine which 5-digit ZIP Codes in Los Angeles 900** have pickup of A-Label Express Mail as an available option, using resources such as the USPS website, the toll-free information number

³ Objection at 1-2.

⁴ Motion at 1-2.

⁵ Opposition of the United States Postal Service to David B. Popkin Motion to Compel Responses to Interrogatories DBP/USPS-306, 307, 310, September 13, 2005 (Opposition), at 1-2.

⁶ Response of the United States Postal Service to Interrogatories of David B. Popkin (DBP/USPS-210-213), August 9, 2005, (Response of August 9), at 308.

1-800-ASK-USPS, and Publication 272. The Postal Service objects on the ground of relevance, asserting that the questions “lack the necessary nexus to the ratemaking process.”⁷

In his Motion, Mr. Popkin states that the interrogatory is intended to resolve what he perceives as errors and inconsistencies in the Service’s response to DBP/USPS-211 regarding the public’s ability to use post office-to-post office A-Label Express Mail service. He argues that the public’s ability to use this service is relevant to its value, and therefore to the ratemaking process.⁸

The Postal Service replies that movant’s allegation of errors and inconsistencies in the response to DBP/USPS-211 is baseless, as the information provided in the response was and remains accurate. Further, the Service argues that subparts (a) and (c) of the interrogatory seek a finer level of detailed information, rather than rectification of errors or inconsistencies in the response; that subpart (b) likewise seeks additional detail regarding use of the 1-800-ASK-USPS service and has no relevance to value of service; and that subparts (d) and (e) request information about the possible revival of a publication discontinued by the Service long ago that is utterly irrelevant to this proceeding.⁹

I agree with the Postal Service that this interrogatory seeks additional minutiae regarding Express Mail service that are of minimal relevance in the context of an omnibus rate proceeding. The public’s ability to use this service is indeed a component of its value, as the movant argues. However, the Service has responded fully to the questions posed regarding service availability in DBP/USPS-210 and 211.¹⁰ The response to DBP/USPS-210(d) comprises a summary of the resources accessible by any member of the public for determining whether the service is available. The quest for additional details responsive to the movant’s desired use of these resources to

⁷ Objection at 2.

⁸ Motion at 2.

⁹ Opposition at 2-5.

¹⁰ See Response of August 9, *passim*.

acquire total information about service availability in Los Angeles is misplaced in a proceeding where the germane issue is the overall value of Express Mail service. Therefore, I shall deny the motion as to this interrogatory.

DBP/USPS-310. This interrogatory refers to the response to DBP/USPS-304, which asked the Service to provide insight as to why retail window service is provided on Saturday in the Pacific Area to approximately one-half the extent, and also to a significantly lesser degree in the Southwest and Western Areas, than such service is provided in the central and eastern parts of the country. Noting that the interrogatory relates to decisions made in a total of three Areas, DBP/USPS-310 opines that “it would seem appropriate that an inquiry could be made to the proper person in each of these three Areas to provide a more responsive answer to my Interrogatory DBP/USPS-304[,]” and asks the Service to reanswer that interrogatory. The Service objects on the ground of relevance, asserting that the interrogatory “seeks an excessive amount of operational detail that lacks any fundamental relevance to the ratemaking process.”¹¹

In the Motion, Mr. Popkin characterizes the interrogatory as an attempt to resolve data provided in response to subpart (e) of another of his interrogatories, DBP/USPS-266, which showed considerable variation in the percentage of offices providing Saturday retail window service in nine specified Areas.¹² Mr. Popkin argues that the ability to obtain retail window service on Saturday is directly related to the value of many services, and therefore is relevant. He further claims that an adequate response to DBP/USPS-310 would involve contacting an appropriate individual in each of the three Areas involved; notes that the Service has not claimed that doing so would be excessively burdensome; and accordingly moves to compel the Service to provide such a response.¹³

¹¹ Objection at 3.

¹² Response of the United States Postal Service to Interrogatory of David B. Popkin (DBP/USPS-226), July 27, 2005, at 3.

¹³ Motion at 3-5.

The Postal Service replies that, even assuming that the availability of Saturday window service is directly related to the value of various services and therefore relevant, the information sought in DBP/USPS-310 is excessively detailed, and would not make a material contribution to the evidentiary record in this proceeding. The Service notes that it has already provided the percentage of offices with Saturday retail window hours, disaggregated to the Area level, and has explained the considerations that go into the decision to provide such hours of service. In a proceeding concerned with recommending postal rates and fees at the nationwide level, the Service asserts, there is no justification for continuing this line of inquiry.¹⁴

I agree with the Postal Service that there is no justification for compelling a response to this interrogatory. While the availability of window service at various times bears on the value of services accessed in that manner, the Area-by-Area explanation sought by Mr. Popkin will involve numerous local factual situations that are well beyond the proper focus of an omnibus rate proceeding. Therefore, as the Service correctly argues, this interrogatory seeks excessively detailed operational information, and need not be answered.

RULING

The David B. Popkin Motion to Compel Response to Interrogatories DBP/USPS-306, 307, and 310, filed September 6, 2005, is denied.

George Omas
Presiding Officer

¹⁴ Opposition at 5-6.